

REMARKS

Claim 17 has been amended to correct an obvious typographical error, namely the omission of the repetition of the term "packet data" in the second bulleted paragraph. Applicant respectfully submits that correction this does not change the scope of the claim.

Rejection under 35 U. S. C. 112, second paragraph

This rejection is respectfully traversed. The dependencies complained of by the Examiner were canceled by a preliminary amendment filed concurrently with the original application. A complete set of claims is included herewith as an appendix, for ease of reference.

Art rejections

The art rejections are generally traversed; however Applicant notes that the references are many and complex. Therefore Applicant confines his comments to the particular portions cited by the Examiner. Applicant makes no representation as to the teachings of the references in other portions not particularly pointed to by the Examiner.

Art rejections: claims 1, 6, and 7

Claim 1 recites, *inter alia*, that a controller receives timing information from a speech coding system.

Applicant respectfully submits that, in applying the Hämäläinen reference, the Examiner mischaracterizes several portions.

The Examiner characterizes elements 3, 4, and 5 as being part of the speech coding system. Applicant respectfully disagrees. It appears that only element 3 is for coding. Elements 4 and 5 seem to have other functions. In particular element 4 is said to be a voice activity detector (VAD) and element 5 is said to be a comfort noise generator. The timing information seems to come from the element 4, rather than from element 3. Accordingly, Applicant respectfully submits that Hämäläinen fails to teach or suggest providing timing information from the coder and instead requires an additional element 4, not required by the invention, in order to acquire timing information.

The Examiner characterizes column 3, lines 21-23 as saying that in Fig. 8 the BTS 33 is the same as the MS 32, in terms of the transceiver. However, this seems to be an oversimplification of what is written there. Column 6, lines 39-61 seem to imply that the figures 8 and 9 relate only to the transmission of control data. Accordingly, they do not appear to relate to the type of data transmission referred to in column 3.

Moreover, the Examiner cites first and second stations with transceivers in figure 8a; however, at column 6, lines 39-61, especially in line 61, it appears that all of the illustrated components are in the base station. Accordingly, Applicant is not sure that it is correct to say there are first and second stations in this figure.

Due to these apparent mischaracterizations, Applicant respectfully submits that the Examiner has failed to make a *prima facie* case against claim one.

Claims 6 and 7 appear to be analogous to claim 1 in this situation.

Art rejections: claim 12

Claim twelve recites allocating at least first, second, and third types of data to a single output data stream.

Against this recitation the examiner cites Feldman. As applied, the Examiner finds only the first and third type of data in Feldman. Also, the abstract of Feldman only mentions two types of data. Accordingly, on its face, the rejection fails to present a *prima facie* case against claim 12.

Art rejections: claim 13

Claim 13 depends from claim 12 and recites that the first type of data is video and the second type data is voice.

Against this recitation the examiner points to column 7, lines 26-33 of Feldman. This portion of Feldman teaches voice and video as alternatives. This portion of Feldman fails to teach or suggest that video and voice would be allocated to a single data stream. Accordingly, Applicants respectfully submit that the rejection fails to present a *prima facie* case against claim 12.

Art rejections: claim 16 & 21

Claimed 16 recites, *inter alia*, accumulating non-real-time packet data until voice is silent. The Examiner purports to find this figure 4 of Feldman; however Applicant finds no such step in the figure. Clarification is respectfully requested.

New claim 21 recites that when the real-time data does not require the full capacity, both real-time and non-real-time data are allocated as a dual mode channel to the output stream. This

distinguishes patentably over Feldman, where real-time and non-real-time data are transmitted in the alternative, not together.

Art rejections: claim 17

Claim 17 recited, *inter alia*, variably allocating real-time data and non-real-time data packets to multiple time segments within a time frame. For clarification, Applicant has changed "variably" to "in variable portions" later in the paragraph. Applicant respectfully submits that as amended the claim clearly distinguishes patentably over Padovani.

Art rejections: claim 14

Claim 14 recites combining data at least two types into a single output data stream. The at least two types comprise variable rate real-time data and non-real-time data.

Against this recitation, the Examiner cites Padovani. Based on the portion cited by the Examiner, Applicant is unable to find that Padovani teaches transmitting non-real-time data. The voice data seems to be transmitted at the lower rate of speed than the non-voice data, but this does not mean voice data is not real time.

Claim 14 further recites encoding the combined data using a single spreading code.

Against this recitation, the Examiner cites encoder 22 of Padovani and, column 8, lines 47-60. This portion of Padovani refers to a convolutional encoder. Applicant cannot find any teaching or suggestion in the portion cited by the Examiner that this convolutional code provides spreading. Applicant believes that convolutional codes alone do not normally provide spreading.

Accordingly, Applicant respectfully submits that the Examiner has failed to present a *prima facie* case against claim 14.

Art rejections: claim 15

Applicant respectfully submits that this rejection is defective on its face. The Examiner recognizes that the recited method is not taught in the reference. The Examiner's argument as to why the recitation is allegedly obvious over the reference appears to come from impermissible hindsight reconstruction in light of Applicants' disclosure.

The Examiner's other rejections and/or points of argument not addressed would appear to be moot in view of the foregoing. Nevertheless, Applicant reserves the right to respond to those rejections and arguments and to advance additional arguments at a later date.

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Respectfully submitted,

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